

1 UNITED STATES BANKRUPTCY COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3 RIVERSIDE DIVISION

4 In re: ) Case No. RS 04-14498 PC  
5 )  
6 PLUMBEREX SPECIALTY ) Chapter 11  
7 PRODUCTS, INC., )  
8 ) Date: May 19, 2005  
9 ) Time: 9:30 a.m.  
Debtor(s). ) Place: U.S. Bankruptcy Court  
Courtroom 303  
3420 Twelfth Street  
Riverside, CA 92501

10 *At the above captioned date and time, the court considered the Application for Payment*  
11 *of Interim Fees and/or Expenses of Birch, Stewart, Kolasch & Birch, Attorneys for Debtor. The*  
12 *following is the text of the court's final ruling which is attached to the minutes of the hearing.*  
13 *Because the court has determined that the disposition constitutes a "reasoned explanation" for*  
14 *the court's decision within the scope of the E-Government Act of 2002, the final ruling is posted*  
15 *to the court's Internet site, [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), in a text-searchable format as required by*  
16 *the act. The official record remains with the minutes of the hearing.*

17 **FINAL RULING**

18 Birch, Stewart, Kolasch & Birch, LLB ("BSKB"), intellectual property counsel employed  
19 as a consulting expert by the debtor in possession, has filed its second application for an interim  
20 allowance of fees and expenses in this case. BSKB has itemized \$14,390.00 in fees and \$28.70  
21 of costs, for a total of \$14,418.70. Watertite Products, Inc. ("Watertite") has filed an objection to  
22 BSKB's fee application.

23 The court approved BSKB's employment on July 15, 2004. BSKB rendered a total of  
24 47.8 hours of services to the estate billed at a blended hourly rate of \$301.05. BSKB's itemized  
25 services cover the period from September 20, 2004 through October 4, 2004.  
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1 11 U.S.C. Section 330(a)(1)(A) & (B) permits approval of “reasonable compensation for  
2 actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional  
3 person” and “reimbursement for actual, necessary expenses.” In the present case, the debtor  
4 employed BSKB to assist it in the reorganization. BSKB's services included an analysis of the  
5 trial record and assistance in preparing debtor's opening brief in the Patent case.  
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7 Watertite objects to allowance of the requested fees, claiming primarily that BSKB's  
8 services were duplicative of services rendered by other professionals, Van Etten, Schaap, and  
9 Scillieri, retained to assist debtor in the Patent and Antitrust cases. Watertite further argues that  
10 Van Etten, Schaap, BSKB and Scillieri together failed to exercise proper billing judgment on  
11 work performed for the estate, noting, for example, that the firms billed over 400 hours on the  
12 Patent case during the period for which interim fees are sought, aggregating to fees of over  
13 \$160,000.  
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15 Watertite's objection is sustained, in part, and denied, in part. In awarding fees under  
16 section 330(a), the court must consider whether the services were necessary to the administration  
17 of, or beneficial at the time at which the service was rendered toward completion of, a case under  
18 title 11. 11 U.S.C. Section 330(a)(3)(C). In making such a determination, the court considers,  
19 among other factors, whether the services were performed within a reasonable amount of time  
20 commensurate with the complexity, importance, and nature of the problem, issue or task  
21 addressed. 11 U.S.C. Section 330(a)(3)(D). Professionals employed under section 327 must  
22 make a good faith effort to exclude from fee requests hours that are excessive, redundant,  
23 unjustified, or otherwise unnecessary. Unsecured Creditors' Committee v. Puget Sound  
24 Plywood, Inc., 924 F.2d 955, 961 (9th Cir. 1991); *see In re Riverside Linden Inv. Co.*, 925 F.2d  
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1 320, 322 (9th Cir. 1991).

2 BSKB has the burden of establishing that its services were compensable legal services,  
3 and that such legal services were necessary to the proper and effective administration of the  
4 estate. Here, BSKB must provide evidence in the form of declarations and comprehensive time  
5 records establishing that the legal services for which it seeks compensation did not duplicate  
6 those rendered by Van Etten, Schapp, Scillieri, and that the firm exercised appropriate billing  
7 judgment for its services when viewed in conjunction with those rendered by Van Etten, Schaap,  
8 and Scillieri on the Patent case. Without more information, the court is unable to make a finding  
9 that all of such services were necessary nor that BSKB has exercised proper billing judgment in  
10 seeking compensation for such services.  
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12 Based on the foregoing, the court will approve an interim allowance and payment of  
13 \$10,073 of the \$14,390 in compensation sought by BSKB, without prejudice to BSKB's right to  
14 seek allowance and payment of the balance of \$4,317 in fees in a further application addressing  
15 the concerns set forth above. The court will also approve \$28.70 as actual, necessary expenses  
16 in this case. This interim fee allowance is subject to the court's reexamination and adjustment in  
17 making a final determination of the nature, extent and value of the services performed upon the  
18 conclusion of the case. Leichty v. Neary (In re Strand), 375 F.3d 854 (9th Cir. 2004).  
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